

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS
_____ DIVISION**

JUL - 8 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY BSJ
DEPUTY CLERK

Gene Taylor
Plaintiff's Name and ID Number

BCAD
Place of Confinement

CASE NO. 5:20-CV-00740-OLG
(Clerk will assign the number)

v.

~~Benjamin Garcia~~
Defendant's Name and Address

Sheriff Javier Salazar miss K. Short of PREA Leadership
Defendant's Name and Address

200 N. Comal St. San Antonio, TX
Defendant's Name and Address
(DO NOT USE "ET AL.") 78207

INSTRUCTIONS - READ CAREFULLY**NOTICE:**

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND IN FORMA PAUPERIS (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? YES ☒ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: _____
 2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____
 3. Court: (If federal, name the district; if state, name the county.) _____
 4. Cause number: _____
 5. Name of judge to whom case was assigned: _____
 6. Disposition: (Was the case dismissed, appealed, still pending?) _____
 7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: Bexar County Adult Detention Center

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure?

☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff:

Gene Aubrey Taylor III
5414 Midcrown Dr. Apt #2119
San Antonio Tx 78218

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: James Williams (cellmate)
(address Unknown)

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Caused my Head trauma, strangulation, and anal tearing,
according to the E.R doctor at Methodist Specialty Hospital

Defendant #2: Bexar county Sheriff classification officer

that was sent to take the report and rehouse me from harm

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Failure to follow protocol policies, and procedures that
would've kept me safe as the reason for the P.R.E.A. Law.

Defendant #3: Officer Rivera (BCAUC) (On duty, during the sexual assault)

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Officer Rivera fell asleep with music playing from his speaker
for the hours at which I was sexually assaulted, failed to keep me
safe after he was awakened by Lt. Mitchell he then stated safe.
that he got the reclass info but didn't wanna wake me up.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: Lt. Mitchell.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Covietenant on duty that woke the sleeping officer (Rivera) to
sign the log book that he made appropriate rounds, at which
he did not

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

James Williams threatened to assault me so I called the PREA Hotline, classification officer came and made the report & determined I would be reassigned to a different cell. Officer of classification then put me back in the cell for a twenty minute wait, He classed me in the computer, but officer Rivera fell asleep and that's when I was raped by James Williams. James grapped me by the throat. Shoved my head to hit the floor, files from the floor ~~scratched~~ scratched my face I was given a concussion from this incident. He shoved a lotion bottle in my anus and then inserted an unknown object in my anus after that. He got ~~scared~~ ^{scared} from a noise from another cell mate then he stopped. I got in my bed until Lt. Mitchell came to the cell and I then alerted her. She took the report

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I'm seeking monetary for pain and suffering and hospital bills. Also for trauma and medical bills from methodist specialty hospital which are now due

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

NA

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

NA

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES ☒ NO

C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: 6-30-20
DATE

Gene A. Taylor III
Gene Taylor III
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 30 day of June, 20 20.
(Day) (month) (year)

Gene Aubrey Taylor
Gene Taylor III
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

On November 24 around 9:00^{pm} of 2019

I recieved a threat from James Williams, stating that he would sexually assault me.

I called the PREA Hotline and an Unknown Office from Bexar County SherriFF PREA

reclassification department arrived to my cell and took my statement. After he took my statement he decided that I was in danger and that he would move me to another cell. He said he would do so after he came back in 20 minutes. At that moment I

felt like I had no privacy because he took the report from me in front of another non PREA Bexar County Sheriff officer, which was a breach of Confidentiality.

I was placed back in the unit cell 1A, with the same person, James Williams. After I was placed back in the cell & the guard was closing the Day Room, James called me over to his bed. I hoped he didnt see me being called outside by the guard, but he did. He made another threat because he said he saw the guard and also said I cant get away this time. He commanded me to hold a lotion bottle.

I declined. He then grabbed me by my throat and neck he forced me down to the ground and hit my head on the tile. After coming to it seemed like I was very dizzy. my vision was spotty and my anus was burning. I heard someone

(Lt Mitchell) coming in the door. So I ran to the front, where she woke the guard and signed a book. She left. I woke the guard again. He said he got the go ahead to transfer me but he thought I was sleep. I told him ^(Off. Rivera) he was the one sleeping and then told me to leave the cell.

Once I exited the cell I went to the Sergeant's tower. I informed the Sergeant in charge what happened. He alerted the Lieutenant named Lt Mitchell. She called in a detective that recorded my story. Afterwards I was transported to Methodist Specialty Hospital where I had to provide the details of the case again. I was given a physical exam. The nurse on duty determined that I had been strangled and was suffering from a concussion along with tearing in my anus. My health was bad enough to be admitted to the Emergency Room. Upon my release I was sent back to BCADC. The next day I was confronted by Miss K Short (PREA Leadership). She then apologized, stating she was sorry because the classification officer failed to do their job by placing me back in the cell with the man (Jamel William) that threatened to harm me. It was at that point I felt extremely bad, mad, and violated because the classification officer with Prea should've known that protocol, that he ~~was~~ wasn't supposed to place me back in harm's way.

G. Taylor # 762169
200 N. Comal
San Antonio TX 78204

RECEIVED

JUL - 8 2020

SCREENED BY CSO

JUL 08 2020

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY W. T. C.
DEPUTY CLERK

INDIGENT

Clerk, US District Court

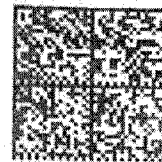
BEXAR COUNTY JAIL

INMATE MAIL

Western District of Texas
John H. Wood Jr., U.S. Courthouse

655 East Cesar E. Chavez Blvd

78205-1105 San Antonio, TX 78204



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